

If transactions for the Licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

September 15, 2004

Dear Xxxxx:

This letter is in response to your letter dated October 21, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

On July 15, 2003 the Illinois Department of Revenue issued a general letter ruling response to ABC, which we have enclosed. On behalf of our client, a customer of ABC, we are submitting additional documentation in response to your letter dated July 15, 2003. Our client would like clarification of the requirements stated in your letter regarding 86 Ill. Adm. Code Section 130.1935(a)(1)(A), (B), (C), (D) and (E). Based on your general letter ruling response, ABC had met requirements (A, B, C, and E), but not (D).

Your letter stated that a notarized statement made under penalties of perjury by the licensor to the licensee that ABC's policy is to provide another copy of the software at minimal or no charge if the customer loses or damages the software would meet this requirement. We are attaching a copy of a notarized statement regarding ABC's policy regarding the provision of another copy of the software. We therefore ask that you issue a response stating that all requirements of Section 130.1935(a)(1) have been met, making the sales of software exempt from Retailers' Occupation Tax.

If you require additional information, please contact me. We appreciate your assistance.

**DEPARTMENT'S RESPONSE:**

I apologize for the delay in getting a response to you. As pointed out in your request, the issue of taxation of software licenses may be found at 86 Ill. Adm. Code 130.1935. As stated above, general information letters are used to direct taxpayers to the Department's regulations and other sources of information for general guidance.

We are unable in the context of a general information letter to provide you with a specific answer in regards to this specific affidavit. Please refer to Section 130.1935(a)(1) to determine if your license agreement meets the requirements as set out under that Section.

Should you wish to submit this matter for a private letter ruling please refer to 2 Ill. Adm. Code 1200.110 for the proper requirements under that section.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

EEB:msk